

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

YETI Coolers, LLC,

Plaintiff,

v.

**Zhejiang Zhuosheng Industry & Trade Co.,
Ltd., d/b/a Wuyi Zhuosheng Household
Metal Products Co. Ltd., d/b/a Yongkang
Zhuosheng Metal Products Co., Ltd., d/b/a
Zhejiang Zhuosheng Co., Ltd.,**

Defendant.

Case No. 1:16-CV-00457-RP

YETI COOLERS, LLC'S RESPONSE TO ORDER TO SHOW CAUSE

YETI Coolers, LLC ("YETI") submits this response to the Court's August 22, 2016, Order for YETI to show cause why this action should not be dismissed. The Court should not dismiss this action. Defendant Zhejiang Zhuosheng Industry & Trade Co., Ltd. ("Zhuosheng") is a Chinese entity located in and doing business in China. (ECF No. 1, ¶ 2). The time limit for service set forth in Federal Rule of Civil Procedure 4(m) does not apply to service in a foreign country under Rule 4(f). *See* Fed. R. Civ. P. 4(m) ("This subdivision (m) does not apply to service in a foreign country under Rule 4(f)"). Rather, service of Zhuosheng is therefore governed by Rule 4(f), which does not provide a time limit for service. Accordingly, there is no time limit set by the Federal Rules for YETI to serve Zhuosheng with the Complaint in this matter.

While there is no time limit for service of Zhuosheng, YETI has taken numerous steps, detailed below, in an effort to serve Zhuosheng.

- On April 18, 2016, YETI sent Zhuosheng a Request for Waiver of Service. (Exhibit 1, Declaration of Sean J. Jungels, ¶ 3, Exhibit A). Zhuosheng did not respond to YETI's waiver request. (*Id.*).
- On May 11, 2016, YETI initiated service on Zhuosheng pursuant to the Hague Convention on the Service Abroad of Judicial or Extrajudicial Documents, in accordance with Rule 4(f). (*Id.*, ¶ 4, Exhibit B). Based on other experiences of YETI's counsel, serving process on parties located in China via the Hague Convention typically takes about four to six months or more.
- Zhuosheng is believed to be a supplier to RTIC. On July 8, 2016, YETI's counsel asked counsel for RTIC whether RTIC would accept service on behalf of Zhuosheng. RTIC's counsel stated that they "cannot accept service" of the Complaint on behalf of Zhuosheng. (*Id.*, ¶ 5, Exhibit C).

Because there is no time limit for service and because YETI has been diligent in its efforts to serve Zhuosheng with the Complaint, the Court should not dismiss this action. YETI has shown good cause for any extended time period that service of Zhuosheng entails.

Dated: September 1, 2016

Respectfully submitted,

By: /s/Sean J. Jungels
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ATTORNEYS FOR YETI COOLERS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2016, I caused the foregoing document to be electronically filed with the Clerk of the court pursuant to the Electronic Filing Procedures and using the CM/ECF system, and that a true and correct copy was served by courier on the following:

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/s/Sean J. Jungels